

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

United States District Court  
Southern District of Texas  
FILED

OCT 12 2010

MATT TUCKER,  
Plaintiff

§  
§  
§  
§ Civil Action No.: \_\_\_\_\_  
§ Jury Trial Requested  
§  
§

David J. Bradley, Clerk of Court

v.  
ASI LLOYDS,  
Defendant

**DEFENDANT ASI LLOYD'S NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant ASI LLOYDS (Hereinafter "Defendant") through its undersigned counsel, hereby petitions this Court pursuant to 28 U.S.C. §1332(a) and 28 U.S.C. §1446 for removal of this action currently filed in the 11<sup>th</sup> Judicial District Court of Texas in Harris County, Texas. In support of this petition Defendant would show:

- 1) This action is being removed pursuant to diversity jurisdiction under 28 U.S.C. 1332(a):
  - a) Filed contemporaneously is the copy of the District Clerk's file for this case including true and correct copies of all executed process, pleadings, and orders and a certified copy of the docket sheet;
  - b) Filed contemporaneously is the Designation of Counsel;
  - c) Filed contemporaneously is the Index of Matters being filed;
  - d) On or about September 10, 2010, Plaintiff MATT TUCKER, a resident of Texas, filed a petition in Texas state court against Defendant ASI LLOYDS. Plaintiff asserts causes of actions for breach of contract, breach of the duty of good faith and fair dealing, violations of the Texas Deceptive Trade Practices Act, and violations of the Texas Insurance Code seeking compensatory, statutory, and exemplary damages and attorney's fees.

- 2) Plaintiff served Defendant ASI LLOYDS with the citation and the petition on September 29, 2010.
- 3) ASI LLOYDS promptly filed its answer after receiving service.
- 4) Plaintiff is an individual residing in Texas.
- 5) Defendant ASI Lloyds was and is a Lloyds association of underwriters whose individual underwriters reside in Florida. Therefore for jurisdictional purposes it is a citizen of Florida. *See Massey v. State Farm Lloyds Ins. Co.*, 993 F.Supp. 568, 570 (S.D. Tex. 1998). It also maintains its principal place of business in Saint Petersburg, Florida. As required by Texas law it does maintain a domicile in Texas and an attorney-in-fact in Texas, but neither of those facts change its Florida citizenship based on the citizenship of its underwriters for diversity purposes. *See Royal Ins. Co. v. Quinn-L Capital Corp.*, 3 F.3d 877, 822-824 (5<sup>th</sup> Cir. 1993), *cert. denied*, 522 U.S. 815 (1997).
- 6) Plaintiff has pled economic damages exclusive of attorneys fees and costs under its various causes of action. Additionally, Plaintiff has plead for past and future mental anguish, inconvenience, loss of use, statutory attorneys fees, an additional two (2) times economic and mental anguish damages under its Deceptive Trade Practices and Texas Insurance Code causes of action and punitive damages under its breach of the duty of good faith and fair dealing causes of action. The insurance policy at issue provides coverage amounts of:

1. Dwelling...\$182,000.00;
2. Other structures...\$18,200.00;
3. Unscheduled personal property...\$91,000.00;
4. Loss of use...\$36,400.00.

- 7) These amounts clearly establish that the amount in controversy exceeds the jurisdictional requirements. *See Chittick v. Farmers Insurance Exchange*, 844 F.Supp. 1153, 1155 (S.D. Tex 1994).
- 8) Notice of Removal has been timely filed in compliance with 28 U.S.C. §1446(b).
- 9) This court has diversity jurisdiction under 28 U.S.C. 1332(a).
- 10) This is a civil action filed in state court in Harris County, Texas over which this Court may exercise diversity jurisdiction. The notice of removal has been timely filed. Therefore Defendant is entitled to remove this case to the United States District Court for the Southern District of Texas, Houston Division, Harris County, Texas.
- 11) Notice of the Removal has been sent to both the Clerk of the 11<sup>th</sup> Judicial District Court, Harris County, Texas as well as to the Plaintiff through his counsel of record.
- 12) Plaintiff previously filed a request for jury trial and jury fee.
- 13) Defendants therefore respectfully request the removal of this action from the 11<sup>th</sup> Judicial District Court of Harris County, Texas.

Respectfully submitted,

By:   
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ATTORNEY FOR DEFENDANT  
ASI LLOYDS

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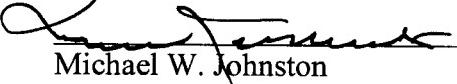
**CERTIFICATE OF SERVICE**

This is to certify that pursuant to the Applicable Rules of Civil Procedure, the above document, including any attachments, was served upon the following attorney(s) of record and pro se parties on the 12th day of October, 2010, by the method indicated:

- In Person to:  
 Regular U.S. Mail to:  
 Courier Delivery to:  
 Certified Mail, Return Receipt, Requested to:  
 Facsimile to:  
 As directed by the Court to:

**Via Facsimile: (409) 497 – 4574**

Martin Arguello  
M. Joseph Greer  
David Christoffel  
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Michael W. Johnston